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Supreme Court, U.S.
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Case No: 04-1130

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In the

Supreme Court of the United States

THOMAS SHARPE, M.D.

Petitioner

v.

CHARLES P. CONOLE; et al

Respondents

On Petition for Writ of Certiorari
To The United States Court of Appeals
For The Second Circuit

SUPPLEMENTAL BRIEF

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I. THE UNITED STATES HAS AN INTEREST

On May 4, 2005 Sharpe was informed by attorneys of the US Army JAG Corps that a civil action, at the United States District Court, Northern District of New York 7:04-CV-756 reached a settlement agreement, in round figure 1 million Dollars, before the Hon. Thomas J. McAvoy

The case was filed by serviceman David Bitters to recover damages due to the death of his Wife Pamela A. Bitters on May 31, 2003 at the University Hospital State University of New York, Syracuse.

Ms. Bitters a 27 years old female delivered a baby on February 1, 2003. She was followed by the Guthrie Clinic, at the Fort Drum Army Base, Home of the 10 th Mountain Division.

The Guthrie Clinic and the Fort Drum Army Base which is located in a short distance from Gouverneur New York, during the time mentioned in the petition, used Sharpe's service to deliver babies of service women and family members of servicemen. Since the respondents destroyed the maternity service in Gouverneur, the army left Gouverneur E.J. Noble Hospital, and babies were and are delivered in Samaritan Hospital Watertown, and Carthage Area Hospital Carthage, NY.

Since Sharpe had a very good working relationship with the army Sharpe remained a consultant for the army when things went wrong, like in the Bitters case.

Ms. Bitters delivered in Samaritan Hospital. After her delivery she had complaint of irregular bleeding and a number of vague complaints like headache and abdominal discomfort. She was followed at the Guthrie Clinic on the Army base after her discharge from the hospital. Her complaints got gradually worse, and finally on May 24 2003 she was admitted with the diagnosis of Choriocarcinoma to the University Hospital Syracuse. At the University Hospital under the care of Chad Hartley, M.D. resident physician she had a bilateral trepanation of her skull and died on May 31, 2003. Her chart was countersigned by attending physician David A. Carter, M.D. The autopsy showed a disseminated choriocarcinoma, which is a cancer arising from the cells of the placenta.

In the Army physicians immediately reviewed the case locally and in Walter Reed Hospital. The conclusion reached found the army physician negligent of causing delay in diagnosing the cancer. So the Army agreed to compensate the husband and the family.

All this leaves us with the question of the role of the State University and the University Hospital in this negligence.

First of all, choriocarcinoma is an obstetrical complication. There is no obstetrician of record from the State University.

Second: Agreed by all the treatment of choriocarcinoma is before all chemotherapy. special antitumor agent were developed for this cancer their administration does not

require brain surgery a nurse can administer them intra muscular route.

The State University of New York Syracuse runs two hospitals. Crouse Irving Hospital is a private hospital. The University Hospital is State. Obstetrics is in Crouse Irving Hospital, where faculty members of the University conduct their private practice. The Crouse Irving Hospital can be held liable for negligence. Much more difficult to bring the University Hospital to court, because of laws protecting the state against civil suits, and because the expert witnesses in the Central New York area as a rule come from the State University. Outsiders are not advised to challenge the University Hospital because faculty members are the witnesses used by the New York State Health Department against physicians.

In summary the paying private patients are admitted to Crouse Irving Hospital , while riskier cases wind up at University. The system cost dearly to Sharpe just like it cost the Army.

The State University which forces referrals to its faculty members from the Army does not have any prospective or retrospective discussion of cases and protocols with Army physicians. The situation of the Army physicians is the same a Sharpe's was

II. EVIDENCE AGAINST THE STATE DEFENDANTS.

Allegations against Steven Burkhart, M.D.

page 27, of the Amended Complaint:

7. Burkhart assaulted Patient "M" by giving out an opinion disregarding the patient's diabetes and high blood pressure. Meanwhile he conspired with defendant Choate to disable defendant Aubry to interfere. The result was a critical damage to both mother and baby. Patient "M" filed a suit because of her and her baby's damages

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9. Plaintiff was actually killed by Burkhart and his codefendants Conole, Schuessler,Choate, Carone and Leader. Plaintiff still had a high number of patients deeply confused and utterly harassed by the defendants, and a group of patients severely injured by the defendants. The defendants distorted all complaints filed by the patients against the defendants, and noticing that the plaintiff can not keep up with the injured patients and the falsifications the defendants make about them, noticing that the plaintiff is getting sick and losing his resources, forced him to give up his license on June 11, 1997. Ten weeks later plaintiff was clinically dead in cardiac arrest.

Affidavit of Joanne Lasher Oleslager:
UNITED STATES DISTRICT COURT 7:99-CV-0971
NORTHERN DISTRICT OF NEW YORK
THOMAS SHARPE, M.D. Plaintiff v. CHARLES P. CONOLE et al.

Joanne Lasher Oleslager, being duly sworn deposes and says: 1. Deponent has a B.S. degree in Community and Human Science, from SUNY Empire State College

and she is a religious counselor. She also had a small job at E.J. Noble Hospital, Gouverneur, NY. 1996-1997.

2. Pregnant adolescent girls have been abused by the hospital and its administrator in 1996-97 by being locked out of reproductive care

3. The hospital blocked the access of the girls to reproductive care. Martha Ellen of the Watertown daily Times referred the girls to inactive physicians.

3. Deponent and other concerned people tried to report the to the Social Services Child Protective Unit. Soon they found out that the Child Protective Hotline is not effective against the hospital. On the hotline a reporter was simply told that the report has to be made to the Health Department.

4. Reports were now sent to the Health Department, but those were not answered. The Hotline now advised to contact legislators or the Governor.

5. The babies dying and getting injured, deponent contacted U.S. Senator Alfonse D'Amato and Governor Pataki. Exhibit 1.

6. The Senator started an investigation, the Governor only promised. Exhibit B.

7. Soon after the Senator contacted the hospital administrator and the Health Department, deponent's personal medical records were altered in the hospital. A brain tumor was included in her history. (She never had one.)

8. She was treated like inferior and incompetent, she was personally searched and told that she has no more job in the hospital.

9. In addition to the abuse of pregnant children, a different kind of abuse threatened all women: Intrusion of their privacy by the administrator. A complaint describing an intrusion of a pregnant laboring patient is described in the annexed complaint Exhibit C.

/signature/

March 14, 2000
Sworn to:
14th day of March
Barbara A. Finnie
Notary Public.

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III. SUMMARY OF ARGUMENTS.

Both the legislative history and the second Circuit decisions are clear on the intent element.

If the offender intends to commit the offense and if he or she knows the natural and probable consequences, the intent element is satisfied.

Here the offenders don't deny that they intended to commit the offenses. The offenders can not deny that they knew that the natural and probable consequences of their actions will be forceful obstruction of provision or seeking of reproductive care and physical injury to those seeking and providing reproductive care.

We also refer to the "administrative review by the State Court." The same judge who presided over this "review" upheld the Legal Malpractice suit Sharpe filed against the attorney representing Sharpe during this "review"

This Supplemental Brief is respectfully submitted

DATED MAY 6, 2005

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